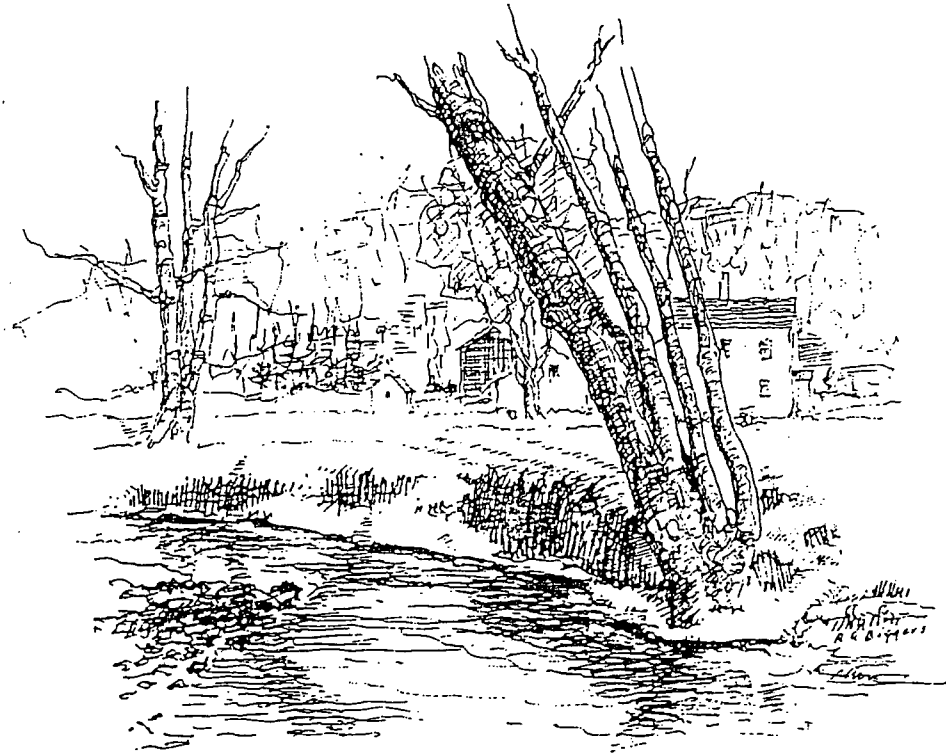


Redding Conservation Commission

Redding, Connecticut 06875

Inland Wetlands and Watercourses Regulations of the Town of Redding, Connecticut



Effective October 20, 1999

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APPLICATION FORM

(Exhibit A)

APPENDIX

(Exhibit B)

SECTION 1. TITLE AND AUTHORITY

1.1 General

The wetlands and watercourses of the Town of Redding constitute indispensable and irreplaceable natural resources. All are parts of the fragile web of life we call our ecosystem. Each in its way contributes to essential life-supporting processes: to an adequate supply of potable water, for the region as well as for the Town; to hydrological stability, for the control of floods and erosion; to biological diversity, for the enhancement of flora and fauna; and to recreational and aesthetic opportunities for people to interact positively with the aquatic environment.

Over the years, water resources have been destroyed or degraded by other processes: by dredging and filling, by obstruction and diversion, by siltation and pollution. Such activities have had and, if tolerated, could continue to have a significant adverse impact on the environment of Redding in particular and of the Upper Saugatuck River Basin in general. The Basin in large part serves the water-supply needs of the citizens of lower Fairfield County.

The preservation and protection of Redding's remaining reservoir of undisturbed water resources is in the public interest, for these resources are clearly essential to the health, welfare, and safety not only of the citizens of Redding, but of all of the suburban and urban communities downstream. It is therefore the purpose of these regulations to provide an orderly process in which the right of a landowner to use or develop his or her land can be placed in balance with the need to protect the crucial public resource that is water and the land forms that contain it. Toward that end, these regulations seek to deter and inhibit any irretrievable loss of these resources, regarding water quality and quantity, flood and erosion control capabilities, use as a biological habitat for fish and wildlife, botanical diversity, and use for aesthetic and recreational values.

- 1.2 These regulations shall be known as the Inland Wetlands and Watercourses Regulations of the Town of Redding.
- 1.3 The Conservation Commission of the Town of Redding is authorized to promulgate inland wetlands and watercourses regulations pursuant to a Town of Redding Ordinance dated March 9, 1973.
- 1.4 The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall grant, grant with modifications, or deny licenses for all regulated activities affecting inland wetlands and watercourses in the Town of Redding pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 1.5 These regulations have been adopted and may be amended from time-to-time in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.

SECTION 2. DEFINITIONS. As used in these regulations:

- 2.1 "The Act" means the Inland Wetlands and Watercourses Act, Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 2.2 "Applicant" means any person who has submitted an application to the Commission for a license to conduct regulated activities pursuant to these regulations or who has submitted information for a determination by the Commission pursuant to Section 5 of these regulations.
- 2.3 "Aquifer" means a geologic formation of land which is capable of yielding usable quantities of groundwater.

- 2.4 **"Bog"** means a poorly drained area containing an accumulation of organic material and characterized by an association of plants recognized as bog species. Typical examples of bog species are listed in Niering, W. and Goodwin, R., "Inland Wetland Plants of Connecticut" (1973), among other publications.
- 2.5 **"Clear cutting"** means the cutting and/or removal of the majority of the principal vegetation in an area.
- 2.6 **"Commission"** means the Conservation Commission of the Town of Redding.
- 2.7 **"Contamination"** means rendering unclean or impure by any alteration of the physical, chemical or biological properties of any waters of the State including, but not limited to, change in odor, color, turbidity or taste.
- 2.8 **"Continual flow"** means a flow of water which persists for an extended period of time. This flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession, in contrast to the flow in an intermittent watercourse.
- 2.9 **"Depositing"** includes, but shall not be limited to, filling, grading, dumping, placing, discharging or emitting.
- 2.10 **"Discharge"** means the emission of any water, substance or material into waters of the State, whether or not such substance causes pollution.
- 2.11 **"Duly authorized agent"** means an individual(s) designated by the Commission to assist it in carrying out its functions and purposes.
- 2.12 **"Essential to the farming operation"** means that the activity proposed is necessary and indispensable to sustain farming activities on the farm.
- 2.13 **"Farming"** means use of land for the growing of crops, raising of livestock or other agricultural use, but does not include uses which are principally recreational including but not limited to horseback riding.
- 2.14 **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles.
- 2.15 **"Intermittent watercourse"**. See "Watercourses".
- 2.16 **"License"** means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act.
- 2.17 **"Marsh"** means an area that has a water table at or above the surface throughout most of the year, subject to seasonal fluctuations, and that contains an association of plants recognized as marsh vegetation. Typical examples of marsh vegetation are listed in Niering, W. and Goodwin, R., op. cit.
- 2.18 **"Material"** means any substance, solid or liquid, organic or inorganic, including, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- 2.19 **"Person"** means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- 2.20 **"Pollution"** means harmful thermal effect or the contamination of any waters of the State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as

directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

- 2.21 "Prohibited activity" means the locating of any portion of a sewage disposal system within 100 feet of any reservoir or within 50 feet of any watercourse flowing into any reservoir used for drinking purposes, pursuant to Section 19-13-B32 of the Public Health Code of the State of Connecticut.
- 2.22 "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity, provided, cost may be considered in deciding what is prudent and further provided, a mere showing of expense will not necessarily mean an alternative is imprudent.
- 2.23 "Regulated activity" means any operation within or use of a regulated area involving removal or deposition of material, or any obstruction, construction, alteration, contamination or pollution of such regulated area, which is likely to impact or affect wetlands or watercourses. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and locations of watercourses. The applicant shall provide this information to the Commission. Such determination shall be made by field inspections and testing conducted by a soil scientist, where soil classifications are required, or by any other qualified individual where locations of watercourses are required.

The following are also deemed regulated activities:

- a. The location of any portion of any subsurface waste disposal system, including any earth-disturbing activities associated therewith, within 200 feet of the mean water line of the Norwalk, Saugatuck, Aspetuck and Little Rivers; of Great, Umpawaug, Steichen's, Factory, Sterritt's, South, Falls and Hedmond's Ponds; of Mirror Lake and Saugatuck Reservoir; within 150 feet of the mean water line and/or perimeter of all other watercourses; and within 100 feet of all wetlands.
 - b. The location of any portion of any structure including any earth-disturbing activities associated therewith (for example, driveway or utility installation), or the engaging in any significant impact activity, within 150 feet of the mean water line of the Norwalk, Saugatuck, Aspetuck and Little Rivers; of Great, Umpawaug, Steichen's, Factory, Sterritt's, South, Falls and Hedmond's Ponds; of Mirror Lake and Saugatuck Reservoir; and within 100 feet of all other wetlands and watercourses.
 - c. The location of any portion of any subsurface waste disposal system or structure, including any earth-disturbing activities associated therewith, or the engaging in any significant impact activity, within 500 feet of the high water line of a vernal pool.
 - d. The engaging in any significant impact activity or the location of any portion of any structure, including any earth-disturbing activities associated therewith, as defined and regulated pursuant to the Flood Hazard Mitigation Program, as described and regulated pursuant to Section 5.4.5 "Flood Safety" of the Zoning Regulations of the Town of Redding.
 - e. Any activity within the Town of Redding, the likely effect of which will have a significant impact on the existing condition of any of the wetlands or watercourses of the State.
- 2.24 "Regulated area" means all watercourses and wetlands as defined in these regulations, and any area the use of which or operation within is likely to impact or affect wetlands or watercourses.
- 2.25 "Removing" includes, but shall not be limited to, draining, excavating, mining, digging, bulldozing, dredging, sucking, grubbing, clear cutting, draglining or blasting.

- 2.26 **"Significant impact activity"** means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of an inland wetland or watercourse
- a. Any activity involving deposition or removal of material which will or may have a major effect or significant impact on the regulated area or any wetland or watercourse.
 - b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - c. Any activity which diminishes or has the potential to diminish the natural capacity of an inland wetland or watercourse system to support desirable fisheries, wildlife, or other biological life; or to prevent flooding, to supply or store water, to protect the quality and quantity of groundwater contained in an aquifer, to perform the recharge process for aquifers, to assimilate waste, to facilitate drainage; to provide recreation or open space; or otherwise to perform its natural resource functions.
 - d. Any activity which causes or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse system.
 - e. Any activity which causes or has the potential to cause a substantial change in the flow of a natural watercourse or groundwater levels.
 - f. Any activity which causes or has the potential to cause contamination or pollution of a wetland or watercourse.
 - g. Any activity which damages or destroys or has the potential to damage or destroy unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- 2.27 **"Soil scientist"** means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
- 2.28 **"Submerged lands"** means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.29 **"Swamp"** means an area dominated by an association of plants recognized as swamp species. Typical examples of swamp species are listed in Niering, W. and Goodwin, R., op. cit.
- 2.30 **"Vernal pool"** means a body of water, natural or manmade, existing within a depression or basin consisting of soil or other geological and organic materials, that contains water for at least two months of the year, but is dry for the remainder of the year under average rainfall conditions, lacks a permanent outlet stream and any fish population. In order to qualify under this definition, the pool must be demonstrated to actually support, or to have the potential to support the lifecycle of any of the following species or similar fauna, including, but not limited to the following obligate species: spotted salamander; Jefferson salamander; marbled salamander; wood frog; fairy shrimp; or the following facultative species: ribbon snake; green frog; pickerel frog; northern spring peeper; gray treefrog; eastern American toad; spotted turtle; pulmonate snail; fingernail clam; predatory caddisfly; seed shrimp; copepod; water flea.
- 2.31 **"Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the State.
- 2.32 **"Watercourses"** means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon this State or any portion thereof, not regulated pursuant to Sections 22a-28 to 22a-35 of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined

permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

- 2.33 "Wetlands" means land, including submerged land, not regulated pursuant to Sections 22a-28 to 22a-35 of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture and which are generally shown, for informational purposes only, on an area boundary map on file in the Redding Land Use Office, entitled: "Soils Survey Map", Redding, Connecticut, dated September 1969. Such areas may include filled, graded or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the National Cooperative Soils Survey. In each instance, however, the actual character of the soil type or types, tested in the field, shall determine whether the land in question is subject to regulation.

SECTION 3. PERMITTED AND QUALIFIED NON-REGULATED ACTIVITIES AND USES

- 3.1 The following activities and uses shall be permitted in inland wetlands and watercourses:

- a. Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
- b. A residential home on a subdivision lot which subdivision had been approved as of May 10, 1973 and for which a valid and current building permit exists which had been issued prior to July 1, 1987.
- c. Boat anchorage or mooring, not to include dredging or dock construction.
- d. Uses incidental to the enjoyment and maintenance of residential property including maintenance of existing structures and landscaping, but not including removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse. Said uses are limited to an area, not to exceed two acres in total, regardless of the total acreage owned, immediately surrounding the existing structures.
- e. Construction and operation, by water companies as defined in Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in Section 22a-401 and 22a-403 of the Connecticut General Statutes,
- f. Maintenance relating to any drainage pipe which existed before the effective date of any Town of Redding regulations adopted pursuant to Section 22a-42a of the Act or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil and other debris whether by hand or machine, while the pipe remains in place.

- 3.2 The following activities and uses shall be permitted as qualified non-regulated uses in regulated areas, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or

deposition of material, alteration or obstruction of water flow or contamination or pollution of a wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such activity or use may include but is not limited to minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
 - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted or regulated.
- 3.3 All activities in regulated areas not specifically permitted by this Section 3 shall require a license from the Commission in accordance with Section 5 of these regulations.
- 3.4 Any person proposing to carry out a permitted or qualified non-regulated activity or use pursuant to Sections 3.1 or 3.2 shall, prior to the commencement of such operation or use, notify the Commission by providing sufficient information to enable a determination that the proposed operation or use is either permitted pursuant to Section 3.1 or non-regulated pursuant to Section 3.2. When the Commission makes such a determination it shall be submitted in writing to the person requesting such determination.
- 3.5 The Commission shall have the sole responsibility and power to determine if any proposed activity and/or use is permitted pursuant to Section 3.1 or permitted as a qualified non-regulated activity pursuant to Section 3.2. If the Commission should determine that a proposed activity and/or use is not permitted as of right, or not permitted as qualified non-regulated, the person proposing such activity and/or use will be required to submit an application pursuant to Section 5 of these regulations.

SECTION 4. REGULATED ACTIVITIES TO BE LICENSED

- 4.1 No person shall conduct or maintain a regulated activity without first obtaining a license for such activity from the Commission.
- 4.2 The Commission shall regulate any activity within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, contamination or pollution, of such wetlands or watercourses and any other regulated activity, unless Section 3 of these regulations provides otherwise.
- 4.3 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 10 of these regulations and any other remedies as provided by law.

SECTION 5. APPLICATION PROCEDURES

- 5.1 Any person expecting to conduct a regulated activity on his or her property shall obtain an Application Form, (see Exhibit A attached) and an Appendix (see Exhibit B attached).
- 5.2 The completed application with the requested information, including notation of compliance with Sections 5.13 and 5.14 if necessary, shall be submitted at the office of the Commission with the appropriate fee as specified in the latest fee schedule posted at the Commission office. No submittal will be considered complete without the fee. In addition;

- a. The Commission shall charge such fees as it may from time to time determine to be reasonably required to defray the expenses incurred in the performance of its duties under the Act and these regulations.
 - b. In addition, as to any particular application, the Commission may charge an added fee calculated by it to defray, among other things, the cost of any additional technical review deemed necessary by the Commission.
 - c. The number of application copies and supporting data required is described in the "Copy Requirement" sheet posted at the Commission office. Failure to submit the required number of copies may be a basis of denial pursuant to Section 5.8 of these regulations.
 - d. Should any person, persons or voluntary association file a timely notice of intervention pursuant to Section 22a-19 of the Connecticut General Statutes, the applicant shall provide one copy of the application and any submitted data to the intervening party.
- 5.3 All applications, including all attached information, reports, maps, plans and drawings, shall be available for public inspection at the office of the Commission.
- 5.4 The submission of an application shall be consent for the Commission and its duly authorized agent to enter upon the property, except private buildings, for the purpose of inspection at all reasonable times. Advance notice will be provided to the applicant whenever practicable.
- 5.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application to its office, provided such meeting is no earlier than three (3) business days after submission, or thirty-five (35) days after such submission, whichever is sooner.
- 5.6 Absent a decision to hold a public hearing, the Commission has sixty-five (65) days from the receipt of the application pursuant to Section 5.5 of these regulations to make a decision. The applicant may consent to one or more extensions provided the total extension shall not be for longer than sixty-five (65) days.
- 5.7 After an initial review by the Commission and/or its consultant(s) of the submitted application, the applicant may be required to provide one or more items of information that are listed in the Appendix and/or other items of information necessary for the Commission to fulfill its obligations pursuant to the Act. Depending on the information requested, the Commission will set a deadline for submission of the requested information. Also;
- a. At any time during the review of the application, the Commission may require the applicant to submit additional information about the proposed activities.
 - b. The Commission may request that an applicant submit a written vernal pool habitat survey prepared by a qualified environmental consultant. This survey shall, at a minimum, include an evaluation of the upland area being used as habitat by vernal pool species, including but not limited to those listed in Section 2.30, during that portion of the species lifecycle when the species is not present in the vernal pool. This vernal pool habitat survey, and other information and evidence available to the Commission, may be used by the Commission to delineate activities conducted on other portions of the applicant's site as regulated activities if they are likely to impact the vernal pool or vernal pool species.

- c. Requests for additional information pursuant to this Section shall not stay the time limitations set forth in Sections 5.6 and 6.2b, c and d, subject to any extensions requested pursuant to Section 5.6 and 6.2e.
- 5.8 Any application deemed incomplete, due to the initial submittal or an applicant's failure to provide additional information as required pursuant to Section 5.7, may be denied by the Commission or withdrawn by the applicant.
 - 5.9 At any time prior to final action by the Commission on an application, the applicant may withdraw such an application by filing a written notice with the Commission.
 - 5.10 The failure of the Commission to act within any time period specified in Sections 5.6 and 6.2 shall not be deemed to constitute approval of the application.
 - 5.11 Any application submitted while another application is pending before the Commission or a court regarding the same or similar regulated activities or regarding a portion of or the total of the same property may be denied pending a final determination on the previous application.
 - 5.12 Any application submitted while the applicant is subject to any enforcement action pursuant to Section 10 may be denied.
 - 5.13 The applicant shall submit the appropriate application materials to the Connecticut Department of Environmental Protection if the proposed activities also include any of the following:
 - a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-411 of the Connecticut General Statutes.
 - b. Construction, encroachment, or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a of the Connecticut General Statutes.
 - c. Construction or placement of any structure or obstruction within navigable waters of the State pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes.
 - d. Discharges into waters of the State pursuant to Section 22a-430 of the Connecticut General Statutes.
 - e. Diversion of water including withdrawals of surface or groundwater in excess of 50,000 gallons per day, or any piping, culverting, channelization, relocation, damming or other alteration of the location of any surface waters of the State where the tributary watershed area above the point of such alteration is 100 acres or larger pursuant to Sections 22a-365 through 22a-378a of the Connecticut General Statutes.

The applicant shall provide the Commission with documentation of compliance with this Section.

- 5.14 Pursuant to Public Act 89-301, when an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company. A site plan and grading and erosion control plan must accompany the notice.
 - a. In Redding, most applicants will be required to notify BHC Company which has filed a map showing the boundaries of its watersheds on the land records of the Town of Redding and with the Commission. Such notice shall be made by certified mail, return receipt requested, and shall be

mailed within seven (7) days of the date of the application. Documentation of such notice shall be provided to the Commission.

- b. BHC Company, through a representative, may appear and be heard at any Commission meeting or hearing on the application.
- 5.15 Pursuant to Section 22a-42c of the Connecticut General Statutes, when an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of another municipality, the applicant shall give written notice of the application to the inland wetlands agency of such other municipality. This notice shall be sent by certified mail, return receipt requested, on the same day of the application's submittal to the Commission's office. Documentation of this notice shall be provided to the Commission.
- 5.16 The Commission shall, in accordance with Connecticut General Statutes Section 22a-42b, notify the town clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when any of the following conditions apply:
- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality.
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site.
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality.
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

This notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application.

A public hearing shall not be conducted until the clerk of any adjoining municipality has received such notice, proof of which and any response shall be entered into the hearing record.

- 5.17 Issuance of a license by the Commission pursuant to these regulations does not change the requirements to obtain any other licenses and/or permits that may be required pursuant to other municipal ordinances and/or regulations, state statutes and/or regulations or federal statutes and/or regulations.
- a. Issuance of a license by the Commission does not obviate the need to obtain a wetlands license from the U.S. Army Corps of Engineers, whenever appropriate.
 - b. Any application made pursuant to these regulations which also requires approval by the Town of Redding's Planning and/or Zoning Commissions must be filed no later than the day the appropriate Planning and/or Zoning application is filed as required by Sections 8-3, 8-25 or 8-26 of the Connecticut General Statutes.

SECTION 6. PUBLIC HEARINGS

- 6.1 The Commission shall not hold a public hearing on an application unless:
- a. The Commission determines that the proposed activity may have a significant impact on wetlands or watercourses; or
 - b. The Commission receives a petition signed by at least twenty-five (25) persons requesting such a hearing. Said petition must be filed with the Commission not later than fourteen (14) days after the date of receipt of such application; or
 - c. The Commission finds it would be in the public interest.
- 6.2 Should a public hearing be held pursuant to Section 6.1 of these regulations;
- a. Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in the Town of Redding, such as The Redding Pilot and/or The News-Times of Danbury.
 - b. The hearing shall open no later than sixty-five (65) days after receipt of the application pursuant to Section 5.5 of these regulations.
 - c. The hearing process shall conclude within forty-five (45) days of the first hearing date.
 - d. The Commission shall make a decision within thirty-five (35) days of the conclusion of the hearing.
 - e. The applicant may consent to one or more extensions of the periods specified in subsections b, c and d above provided the total extension of any such period shall not be for longer than the original period specified.
- 6.3 The applicant shall mail notice of the public hearing to the owners of record of abutting land or land which is within a radius of 200 feet of the wetlands or watercourses involved in the application, no less than fifteen (15) days prior to the day of the hearing. The Commission may request the applicant to notify landowners within 500 feet of the property containing the proposed regulated activity. All such notices shall be by certified mail, return receipt requested. Documentation of such notices shall be provided to the Commission.

SECTION 7. DECISIONS AND LICENSING PROCEDURES

- 7.1 The Commission, after considering all the information submitted by all parties to the proceeding, may:
- a. Grant a license to conduct the regulated activities described in the application.
 - b. Grant a license upon other terms, conditions, limitations or modifications of the regulated activities which are designed to carry out the policy of the Act. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activities and which would (i) prevent or minimize pollution or other environmental damage, (ii) maintain or enhance existing environmental quality, or (iii) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
 - c. Deny the application.

Under no circumstances shall the Commission grant a license for a prohibited activity.

- 7.2 The Commission shall state upon the record the reasons and bases for its decision. In the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with Section 8 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 7.3 The Commission may grant a license without a public hearing provided no petition provided for in Section 6.1b is filed with the Commission on or before the fourteenth day after the date of receipt of the application.
- 7.4 The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested. The Commission shall cause such decision to be published in a newspaper having general circulation in the Town of Redding, such as The Redding Pilot and/or The News-Times of Danbury. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 7.5 Pursuant to the requirements of Public Act 87-533, a reporting form shall be submitted to the Commissioner of the Department of Environmental Protection to allow said Department to properly monitor the inventory of State wetlands and watercourses.
- 7.6 If an activity licensed or denied by the Commission also involves an activity which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision, the license, if any, and any recommendations shall be filed by the Commission with the appropriate Town commission within fifteen (15) days of the date of the decision.
- 7.7 No work may be conducted pursuant to the terms of a license until the license is recorded on the land records of the Town of Redding by the Commission.
- 7.8 If a bond or insurance is required in accordance with Section 12 of these regulations, no license shall be issued until such bond or insurance is provided.
- 7.9 Any license issued under this section for the development of property for which an approval is required by the Town of Redding Planning and/or Zoning Commissions under Sections 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years provided that, under unusual circumstances or when warranted by special conditions, the Commission may establish a specific time period within which any regulated activity shall be conducted. Any license issued under this section for any other regulated activity shall be valid for not less than two (2) years and not more than five (5) years. Any such license shall be renewed upon request of the license holder unless the Commission finds that there has been a substantial change in circumstances which requires a new application or an enforcement action has been undertaken with regard to the regulated activity for which the license was issued, provided no license may be valid for more than ten (10) years. The Commission or its authorized agent may perform a site inspection to determine whether there has been a substantial change in circumstances, and the Commission shall review its records to determine whether an enforcement action has been undertaken with regard to the regulated activity.
- 7.10 An applicant seeking to renew or amend an existing license shall submit the appropriate form provided by the Commission or shall make such request in writing prior to the expiration date. The appropriate fee as specified in the latest fee schedule is required with any request for renewal or amendment. Any application for renewal or amendment shall be prepared in accordance with this Section provided:
 - a. The application may incorporate by reference the documentation and record of the original application;

- b. The application shall state the reason why the licensed activities were not initiated or completed within the time specified in the license;
 - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the license was issued; and
 - d. The application shall certify that no substantial change in circumstances has occurred and that no enforcement action has been undertaken with regard to the regulated activities for which the license was originally issued.
- 7.11 Any work pursuant to the terms of the license conducted after the expiration of the license or work that significantly deviates from such terms shall be considered a violation and subject to the enforcement provisions of Section 10 of these regulations.
- 7.12 The Commission's review of a license renewal or amendment may include a public hearing as provided in Section 6.1 if there has been a material change in the facts or circumstances affecting the wetlands or watercourses for which the license was initially issued.
- 7.13 Should the Commission be unable to make a decision on the renewal of a license prior to its expiration, any decision to renew will be considered retroactive to the date of expiration.
- 7.14 The Commission may accept an untimely request for renewal of a license if the licensed activity is ongoing, and allow the continuation of work beyond the expiration date if, in its judgment, the license is likely to be renewed and the public interest or environment will be best served by not interrupting the activity. The request shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the license.
- 7.15 All licenses shall expire upon the completion of the activities specified therein.
- 7.16 No license shall be assigned or transferred without the written permission of the Commission.
- 7.17 The Commission's failure to enforce any provision of an issued license does not prevent or prohibit the Commission, at a future time, from seeking full compliance and from using all the procedures available pursuant to these regulations or pursuant to the State statutes to enforce full and complete compliance with the terms of the license, whether or not the Commission had actual notice of the noncompliance. A licensee may not use the defense of laches or collateral estoppel in any proceeding commenced by the Commission.

SECTION 8. CONSIDERATIONS FOR DECISIONS

- 8.1 The following general criteria and detailed parameters will guide the Commission in making its final decisions. It shall be the burden of the applicant to establish that the proposed regulated activities are consistent with these general criteria and detailed parameters, wherever applicable.

8.2 General Criteria

In carrying out the purpose and policies of the Act, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses, particularly its propensity directly or indirectly to cause or result in the alteration, contamination or pollution of wetlands or watercourses under all relevant facts and circumstances and including, but

not limited to, the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, and to promote public health and safety.

- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses. This should include, but is not limited to, the alternative of requiring actions of a different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity or changing the intensity and/or magnitude of the activity.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a license for such activity including, but not limited to, measures to (i) prevent or minimize pollution or other environmental damage, (ii) maintain or enhance existing environmental quality, or (iii) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity. This includes recognition of potential damage from erosion, turbidity or siltation, loss of fish and other beneficial aquatic organisms, wildlife and vegetation; the dangers of flooding and pollution; and destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses.
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- g. Measures which would lessen the impact of the proposed regulated activity and may be imposed as conditions of the license. Such measures include technical improvements or safeguards which could feasibly be added to the plan or action to avoid the reduction of the wetland's or watercourse's natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes facilitate drainage and provide recreation.

8.3 Detailed Parameters

- a. The ability of the area in which the regulated activity occurs to continue to absorb, store or purify water or to prevent flooding, and the projected effect on the water table and drainage patterns.
- b. The effect of any material to be removed or deposited on flood control, water supply and quality, and aquatic organisms.
- c. Increased erosion problems resulting from changes in grades, ground cover, or drainage features.
- d. The extent of additional siltation or leaching and its effect on water quality and aquatic life.
- e. The influence of toxic materials on water supplies, aquatic organisms or wildlife.

- f. Changes in the volume, velocity, temperature or course of a waterway and the resulting effects on plants, animal and aquatic life.
- g. Existing flood or stream channel encroachment lines, flood plain and stream belt zoning.
- h. Changes to the physical, chemical and biological properties of the water or soil and their impact.
- i. Importance of the area to the region with respect to water supply, water purification, flood control, natural habitat and recreation.
- j. Natural, historic or economic features that might be damaged, destroyed, rendered inaccessible or otherwise affected by the proposed activity.
- k. The effects of the proposed activity and/or use as it relates to any aquifer.
- l. The existing or potential use of the area as a surface or ground water supply.
- m. The extent to which the area serves as a recharge area or purifier of surface or ground waters.
- n. The function of the area as part of the natural drainage system for the watershed.
- o. The importance of the area as a natural wildlife feeding or breeding area.
- p. The existing and potential use of the area for recreational purposes.
- q. The existence of rare or unusual concentrations of botanical species.

8.4 In making a decision on an application, the Commission shall review:

- a. The application and its supporting documentation submitted by the applicant.
- b. Public comments, evidence and testimony.
- c. Reports from other Commissions and Departments within the Town.
- d. Reports and comments from neighboring towns and federal, state or regional agencies.
- e. Comments from BHC Company on activities within its watersheds.
- f. Reports and testimony from consultants hired by the Commission to review all or a portion of the application.
- g. Opinions by Commission members which are within their own personal knowledge and capabilities.

8.5 In reaching its decision on any application after a public hearing, the Commission shall base its decision fully on the record of that hearing and shall be in writing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. However, the Commission is not precluded from consulting with its own experts after the close of the public hearing on information already in the record of the public hearing.

- 8.6 The Commission shall not grant a license to conduct a regulated activity in a regulated area unless it is able to find that the activity proposed is consistent with all the applicable standards set forth herein, is consistent and compatible with the public policy established by the Act, and that the proposed regulated activity (a) minimizes the disturbance and pollution of wetlands and watercourses, (b) maintains water quality in accordance with the highest standards set by federal, state or local authorities, (c) minimizes damage from erosion, turbidity or siltation, (d) minimizes loss of fish and other beneficial aquatic organisms, wildlife and vegetation, and the destruction of natural habitats thereof, (e) deters and inhibits the danger of flood and pollution, (f) protects the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values, (g) protects the Town's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement, and (h) balances the need for the economic growth of the Town and the use of its land and the need to protect its environment and ecology.
- 8.7 In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a license shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the criteria and parameters set forth in this Section 8. This finding and the reasons therefor shall be stated on the record in writing.
- 8.8 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the license or to present alternatives to the proposed regulated activity.

SECTION 9. AMENDMENTS

- 9.1 These regulations shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations or amendments thereto and notice of the public hearing to consider any proposed regulations or amendments thereto at least thirty-five (35) days before the public hearing. The Application Form (Exhibit A) and the Appendix (Exhibit B) shall be considered as part of these regulations.
- 9.2 An application filed with the Commission which is in conformance with the applicable regulations as of the date of receipt of such application shall not be required thereafter to comply with any change in inland wetlands and watercourses regulations, including changes to setbacks, taking effect on or after the date of such receipt, and any appeal from the decision of the Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

SECTION 10. ENFORCEMENT

- 10.1 In the performance of its duties under the Act, the Commission may, by itself or by its duly authorized agent, enter at all reasonable times upon any public or private property, except private buildings, for the purpose of inspection and investigation to ascertain possible violations of these regulations, including but not limited to compliance with the terms of an existing license. The Commission may authorize such agent to issue notices or orders provided for in subsection 10.2a and b hereof.
- 10.2 Any person who commits, takes part in or assists in any violation of any provision of these regulations, or any conditions of an existing license, shall be subject to the penalties provided in Section 22a-44 of the

Connecticut General Statutes and to such other penalties as the law may provide. If the Commission determines that any person is engaging in any regulated activity without a proper license, or is exceeding the conditions or limitations placed on a license, or the scope of work as set forth in the application, or has obtained a license through deception or through inaccurate information as to either the activity or its environmental impact, or has engaged or is engaging in any other violation of these regulations or of the Act, it shall take one or more of the following measures:

- a. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the person appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application pursuant to Section 5 of these regulations including the proper fee. Failure to carry out the action(s) directed in a notice of violation within the specified time may result in issuance of the order provided in subsection b of this Section or other enforcement proceedings as provided by law.
- b. Issue a written order by certified mail to such person conducting such activity or maintaining such facility or condition to cease immediately such activity or to correct such facility or condition. Within ten (10) days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to subsection c or d of this Section. The Commission may file a certificate of such order in the office of the Town Clerk and the Town Clerk shall record such certificate on the land records of the Town. Such certificate shall be released upon compliance with such order.
- c. The Commission may suspend or revoke a license if, after giving notice to the licensee of the facts or conduct which were the basis for the suspension or revocation and after a hearing at which the licensee is given an opportunity to show compliance with the requirements for retention of the license, it finds that the licensee has not complied with the conditions or limitations set forth in the license or has exceeded the scope of the work as set forth in the application. The licensee shall be notified of the Commission's decision by certified mail within fifteen (15) days of the date of the decision and the Commission shall cause notice of its order in revocation or suspension of a license to be published in a newspaper having a general circulation in the Town.
- d. Commence an action in Superior Court pursuant to Section 22a-44b of the Act seeking to obtain one or more of the following remedies:
 - (1) Court order restraining continuing violations of the regulations; and/or
 - (2) Court order that any violations of the regulations be corrected or removed; and/or
 - (3) Assessment of any or all of the civil penalties provided by Section 22a-44b of the Act. Each violation of the regulations shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense; and/or
 - (4) Assessment of any or all of the penalties provided by Section 22a-44c of the Act.

In any such action, the Commission shall seek a court order reimbursing it for all costs, fees and expenses, including consultants' and attorneys' fees incurred by the Commission in enforcing compliance with its regulations. Actions by the Commission pursuant to subsections 9.2a, b, or c hereof shall not preclude an action pursuant to this subsection.

- 10.3 Nothing in these regulations shall be taken as limiting or excluding such other remedies as are available to the Commission for the protection of inland wetlands and watercourses including, but not limited to, lawsuits under Sections 22a-14 through 22a-20 of the Connecticut General Statutes, for the protection of natural resources, and any legal or equitable powers or remedies which may be granted by a court of competent jurisdiction.

SECTION 11. APPEALS

- 11.1 Actions of the Commission may be appealed in accordance with the provisions of Section 22a-43 of the Connecticut General Statutes.
- 11.2 Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

SECTION 12. BOND AND INSURANCE

- 12.1 The applicant, upon approval of the license, may be required, in the discretion of the Commission, to file a performance bond or the equivalent thereof in an amount and with sureties and in a form approved by the Commission. The bond and sureties shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations specified in the license.
- 12.2 The Commission may require certification that the applicant has public liability insurance against liability which might result from the proposed activity or use covering any and all damage which might occur within two years of completion of the licensed operations, in an amount to be determined by the Commission, commensurate with the projected operations, and the Commission may require that the Town be named an additional insured under such policy.

SECTION 13. OTHER PERMITS

- 13.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Redding, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 14. CONFLICT AND SEVERANCE

- 14.1 Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulation, the provisions of that statute, ordinance or regulation which imposes the greatest restrictions on the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

- 14.2 If there is a conflict between any provision of these regulations and a provision of the Act, the provision of the Act shall govern.

SECTION 15. EFFECTIVE DATE

- 15.1 These regulations shall become effective upon adoption by the Commission, filing in the office of the Town Clerk, and publication of a notice of such action in a newspaper having general circulation in the Town of Redding.